SUPPLEMENT TO

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Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Council Chamber in the Public Offices, Bangalore, on Wednesday the 16th December 1908, at 3 P.M.

PRESENT.

V. P. MADHAVA RAO, ESQ., C.I.E., Dewan (Presiding).

Ex-officio Members.

T. ANANDA RAO, ESQ., B.A., (First Councillor).

K. P. PUTTANNA CHETTY, ESQ., (Second Councillor).

Additional Members.

Official.

RAJAKARYAPRAVINA A. RANGASWAMI IYENGAR, ESQ., B.A., B.L.

RAO BAHADUR M. MUTHANNA, ESQ.

S. NARAYANA RAO, ESQ.

K. S. CHANDRASEKHARA AIYAR, ESQ., B.A., B.L.

Non-official.

RAJAMANTRAPRAVINA C. SRINIVASA IYENGAR, ESQ.

V. N. NARASIMMIYENGAR, ESQ.

M. C. RANGIENGAR, ESQ., B.A.

B. NAGAPPA, ESQ., Barrister-at-law.

SYED AMIR HASSAN, ESQ.

C. S. BALASUNDARAM IYER, ESQ., B.A., (Secretary).

ABSENT.

Official.

H. J. BHABHA, ESQ., M.A.

M. KANTHARAJ URS, ESQ., B.A.

The Secretary reported to the Council that the Village Offices Bill had received the assent of His Highness the Maharaja on the 16th day of October 1908.

Bill to recognize the representative character of the Administrator General of Madras.

MR. K. S. CHANDRASEKHARA AIYAR moved for leave to introduce the above bill, and in doing so said:—

Sir,—I beg with your permission to move for leave to introduce a Bill to provide for the better recognition of the representative character of the Administrator-General of Madras in respect of the assets of deceased British subjects in Mysore.

I may state at the outset that the subject is one that has been under discussion between the Government of Mysore and the British Government since the year 1902, and that the object of the present Bill is to give effect to the understanding that has been reached as the result of such discussion. The legislation proposed is therefore more or less of a formal character.

Next, as to the object of the Bill. The Administrator-General's Act, II of 1874, extends not only to the whole of British India, but also, as far as regards British Subjects of His Majesty the King Emperor, to the dominions of Princes and States in India in alliance with His Majesty. For purposes of administrative convenience, Mysore has been included in the definition of the "Presidency of Madras;" and Section 23 A of the Act declares that probates or letters of administration granted by the High Court at Madras to the Administrator-General of the Presidency of Madras shall have effect over all the assets of a deceased British Subject throughout such Presidency including, of course, the Mysore State.

Since, however, the Act in question was not included in the schedule to the Instrument of Transfer as one of the enactments in force here at the time of the Rendition, and has not since been extended to Mysore by His Highness the Maharaja, it is not part of the territorial law of the State, though of course it is binding as a personal law on British Subjects resident herein. As a consequence, unless the Courts of Mysore are empowered by means of local legislation to recognize the status of the Administrator-General, the provisions of Section 23 A, already quoted, cannot render an authorization by the Madras High Court sufficient in all cases.

The members of this Council may not be unaware that the Mysore Government have already to a limited extent recognized the legal status of the Administrator-General of Madras. For, in clause (ii) of Section 4 of the Succession Certificate Regulation, VII of 1901, it is provided that a Court in Mysore may accept, among other things, a certificate granted under Section 36 or 37 of the Administrator-General's Act, 1874, in proof of the representative title of any person applying for the passing of a decree or for the execution of a decree or order for payment, against the debtor of a deceased person.

What is now proposed is to go a little further and to recognize the representative title of the Administrator-General (under probates and letters of administration granted by the Madras High Court) against all debtors of, and all persons holding property belonging to, deceased British Subjects in the State. For this purpose, a general extension of the British Act is unnecessary, and it is found sufficient to enact a short Regulation on the lines of the Rules framed in this behalf for the Civil and Military Station of Bangalore in a notification of the Government of India of the 15th September 1905.

The Council may rest assured that no loss of stamp revenue will accrue to the State by the arrangement outlined above. It has been settled that the fees payable under Article 11 of Schedule I of the Court Fees Act, 1870, in respect of grants of probate or letters of administration to the Administrator-General, shall, in the case of property belonging to deceased British Subjects situated in the Mysore State, be made over to His Highness' Government by refund from the British Treasury. This, however, is a matter for executive action between the Governments concerned, and will not find a place in the Bill.

With these remarks, I beg to move that leave be granted to introduce the Bill in question into the Council.

RAJAMANTRAPRAVINA Mr. C. SRINIVASA IYENGAR, seconded the motion.

The motion was put to the Council and carried.

A Bill further to amend the City of Mysore Improvement Regulation, III of 1903.

Mr. T. ANANDA RAO moved that the bill be read in Council, and in doing so said :—

Sir,—At our last meeting the Council were good enough to accord to me leave to introduce a bill further to amend the City of Mysore Improvement Regulation, III of 1903.

The Bill has been printed and published under Notification No. 121, dated 31st October last, and I have already explained its main purpose and import. I now beg to move that it be introduced and read at the present meeting of the Legislative Council.

Owing to the non-contentious nature of the proposed enactment and the importance of giving effect to the provisions of the Bill at an early date, it seems to me that the Bill need not be referred to a Select Committee under Rule 45.

MR. K. S. CHANDRASEKHARA AIYAR seconded the motion.

The Bill was then read by the Secretary.

MR. M. C. RANGIENGAR supported the motion and said,

In this connection, I beg to submit, as a member of the Mysore City Improvement Trust Board, that it is more than three years since a recommendation was made by the Board to the Government that the Trust Regulation should be amended on the lines of this Bill. At that time it was thought that the Municipality had ample powers to get the necessary works executed, and it was not considered necessary to confer these powers on the Trust Board. On account of the want of these powers in the Board, however, a good deal of the work of improvement which could have been done during the past three years has been left undone. Under these circumstances, the present bill comes not a moment too soon. I have therefore much pleasure in supporting the motion.

The motion was thereupon put to the Council and carried.

MR. T. ANANDA RAO then proposed the suspension of the rules of business to permit of the bill being finally considered and passed at this meeting of the Council. This was seconded by MR. NAGAPPA and the motion was put to the Council and carried. The bill was then finally considered by the Council and passed.

A Bill to provide a law relating to Treasure Trove in Mysore.

RAJAKARYAPRAVINA MR. A. RANGASWAMI IYENGAR :—Sir, I beg to introduce the Bill to provide a law relating to Treasure Trove and to move that it be read in Council. Before proceeding to refer to the provisions contained in it, I propose to give a short account of the law on this subject at present in force in Mysore. It is contained in the Rules published under the late Chief Commissioner's Notification No. 6 of 1867, and had been adopted from the Madras Regulation XI of 1832. But, having been issued without the sanction of the Government of India, the Rules were not included in the schedule to the Instrument of Transfer and so early as in 1886 the questions as to their legal validity and the expediency of the introduction of a Treasure Trove Act were raised. A Draft Regulation was prepared on the basis of the Government of India Act, VI of 1878, and subjected to careful scrutiny and revision from time to time, and a final draft was prepared in 1894. But in connection with an appeal from an order of the Deputy Commissioner of Shimoga regarding some coins found in a temple under the Chief Commissioner's Rules, a proposal was made to retain the said rules with some minor alterations as regards wording and procedure. But no final action was taken even on this proposal and ultimately it was decided with a view to remove all doubts as to the validity of the existing Rules to introduce a Regulation based on the British Indian Act, VI of 1878.

The principles of jurisprudence applicable to the rights to Treasure Trove or property found hidden underground have differed at different times and in different countries with reference to the ideas prevailing therein as to the rights of property of Government and of individuals.

It is scarcely necessary to enter into any explanation of those principles. They have been referred to in detail in the speeches of the Hon'ble Member who piloted the Bill in the Legislative Council of the Government of India, and it is sufficient to remark that the Draft Bill does not contemplate any material changes in the fundamental principles underlying the provisions of the Chief Commissioner's Rules which have been in force in the State for so many years. Nor is any argument needed to recommend to your acceptance the enactment of a measure on the lines of the British Indian Act, VI of 1878, which has been passed in the legislature of the Government of India after mature deliberation and after careful consideration of the laws on the subject in force in almost all the civilised countries of the world. We are on safe ground in adopting the provisions of such a measure, the more especially as our aim has always been to bring our laws in line with those obtaining in British India. Though drafted on the model of the Indian Act, there are, however, a few material alterations which I shall presently refer to. The chief aim of this Regulation is to prevent the concealment of the discovery of any treasure and its appropriation by the finder to the detriment of the right of persons interested and, what is of greater importance, to enable Government to acquire such articles as may be of historic or artistic importance and worthy of preservation in the interests of the public.

The Bill accordingly requires that intimation shall be given by the finder of the discovery of any treasure and provides penalties for omission to give such intimation. It recognises the right of all persons who can prove an antecedent property in it. This antecedent right is however permitted to be asserted and proved only in cases where there is presumptive evidence that the treasure was hidden within the previous one hundred years. Provision is also made to determine the respective rights of the finder and the owner of the land where the treasure was found, when such right of property is not established. All claims to the treasure and disputes as to the ownership of the land are to be referred to Civil Courts for adjudication. The remaining clauses relate to the procedure to be followed in carrying out the above provisions.

The Bill differs from the British Indian Act, VI of 1878, in the following particulars :—

(*a*) The right of Government to the excess beyond one lakh when no person other than the finder has established his right to a share (clause 17). This is taken from the Chief Commissioner's Rules, though there is no similar provision in the Indian Act.

(*b*) As between the owner and the finder, the Indian Act allots three-fourths to the finder and one-fourth to the owner. An equal division between the two is considered more equitable and the Bill provides for this accordingly (clause 12).

(*c*) When the Deputy Commissioner proceeds to sell the treasure under clause 12, he is required to take the orders of Government as to the particulars of sale.

(*d*) Power is reserved to Government to make rules on matters incidental to treasure-trove not provided for in the Bill.

I need not discuss at present the reasons which led to the proposal of these alterations, as the provisions of the Bill may have to be considered by a Select Committee and brought up for discussion in this Council before it is passed. With these brief remarks, I beg to move that the Bill be read in Council.

MR. S. NARAYANA RAO seconded the above motion, which was put to the Council and carried.

RAJAKARYAPRAVINA MR. A. RANGASWAMI IYENGAR, then moved that the Bill be referred to a Select Committee composed of MR. ANANDA RAO, RAJAMANTRAPRAVINA MR. C. SRINIVASA IYENGAR, MR. NAGAPPA, MR. NARAYANA RAO and the mover.